

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

RAFAEL DANIEL	)	
DE LA CRUZ JIMENEZ,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 19-1761C
	)	(Senior Judge Wolski)
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

**DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO RENDER JUDGMENT**

Defendant, the United States, respectfully submits this response to *pro se* plaintiff Rafael Daniel De La Cruz Jimenez’s motion to render judgment. Dkt. No. 15. In his motion, Mr. De La Cruz Jimenez argues that the United States has failed to respond to his motion for summary judgment, (filed at Dkt. No. 11), and as such, he is entitled to judgment in this case. Dkt. No. 15. However, the United States informed Mr. De La Cruz Jimenez that even though he moved for summary judgment, the “court must satisfy itself that it has jurisdiction to hear and decide a case before proceeding to the merits.” *Hardie v. United States*, 367 F.3d 1288, 1290 (Fed. Cir. 2004) (citations omitted); Dkt. No. 13. We stated that we did not intend to separately respond to his motion on the merits while our motion to dismiss remains pending, unless ordered to by the Court. Dkt. No. 13. Indeed, once the Court properly determines that it does not have jurisdiction to entertain the complaint, the case should be dismissed and summary judgment motion on the merits denied as moot. There is simply no basis for the Court to render judgment in Mr. De La Cruz Jimenez’s favor and his request should be denied.

Respectfully Submitted,

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ROBERT E. KIRSCHMAN, JR.  
Director

s/ Tara K. Hogan  
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November 3, 2020

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury that on this 3<sup>rd</sup> day of November, 2020, I filed this “DEFENDANT’S RESPONSE TO PLAINTIFF’S MOTION TO RENDER JUDGMENT” electronically and caused to be placed in the United States mail (first-class, postage prepaid), a copy of the foregoing addressed as follows:

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